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Senate Bill 1328 (as introduced 5-20-08)
Sponsor: Senator Wayne Kuipers
Committee: Judiciary

Date Completed: 6-2-08

CONTENT

The bill would amend the Michigan Penal Code to require a computer technician who had knowledge of or observed child sexually abusive material within the scope of his or her professional capacity or employment to report that knowledge or observation to the local law enforcement agency. Failure to report would be a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$500.

The Code provides that if a computer technician reports to a law enforcement agency his or her knowledge or observation of images or sound recordings depicting a child engaged in a listed sexual act, furnishes a copy of that image or sound recording to the agency, or keeps the image or sound recording according to the agency's instructions, the technician's identity must remain confidential subject to disclosure only with his or her consent or by judicial process. Also, if the technician acted in good faith, he or she is immune from civil liability that might otherwise be incurred by his or her actions.

The Code defines "computer technician" as a person who installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.

("Child sexually abusive material" means any depiction, whether made or produced by electronic, mechanical, or other means, including a developed or undeveloped photograph, picture, film, slide, video, electronic visual image, computer diskette, computer or computer-generated image, or picture, or sound recording that is of a child or appears to include a child engaging in a listed sexual act; a book, magazine, computer, computer storage device, or other visual or print or printable medium containing such a photograph, picture, film, slide, video, electronic visual image, computer, or computer-generated image, or picture, or sound recording; or any reproduction, copy, or print of such a photograph, picture film, slide, video, electronic visual image, book, magazine, computer, or computer-generated image, or picture, other visual or print or printable medium, or sound recording. "Listed sexual act" means sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, passive sexual involvement, sexual excitement, or erotic nudity.)

MCL 750.145c

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on local government. There are no data to indicate how many computer technicians would be convicted of not reporting an

observation or knowledge of child sexually abusive material. According to the Bureau of Labor Statistics, in 2006, there were 41,903 people employed in computer system design and related services, and computer and office machine repair in Michigan. Local governments would incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.